IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T AND I JURISDICTION

NOTICE OF MOTION NO. 1284 OF 2003

IN

SUIT NO. 42 OF 1995

Darius K. Ferzandi and anr. .....Plffs.

vs.

Shri Jehangir K. Ferzandi

since deceased through

Auzita J. Ferzandi .....Defnds.

Shri Rustom K. Ferzandi

and anr. ....Resp.

A L O N G W I T H

NOTICE OF MOTION NO. 3367 OF 2003

IN

SUIT NO. 42 OF 1995

IN

PETITION NO. 1007 OF 1979

Darius K. Ferzandi and anr. .....Plffs.

vs.

Parveen J. Ferzandi .....Resp.

R. Shah with M. Dalvi i/b. Banatwala and Co. for the petitioner.

Mrs. Agarwal with G. Desai with Sandip Jinsiwala for defendant no.1(b).

Mr. M.L. Palan with Ms. Divya Wanzara I/B. B.R. Oza for Resp. no. 2,3 and 4.

CORAM: S.U. KAMDAR, J.

DATE : 8TH JULY, 2005.

P.C. :

1. Parties to the present proceedings have tendered consent minutes of the order duly signed by the parties and their advocates. Memorandum of Undertaking and consent terms annexed as Exh.A and B is taken on record. Suit disposed off in terms of the consent minutes of the order. Learned

counsel appearing for Respondent nos.2, 3 and 4 has no objection to the said consent terms which is taken on record. In view thereof the minutes of the consent terms is taken on record. Suit No. 42 of 95 is disposed off accordingly.

2. M/s. Nadkarni and Nadkarni is appointed as architect and is directed to survey the land bearing survey no.-10A + 11 + 18 situated at Devlali. He is further directed to demarcate the area of 3 acres 23 guntas equivalent to 144678 sq.mts covered under an agreement dated 13.12.2002 in favour of the respondent no.2, 3 and 4. He is thereafter directed to demarcate the area of 10.4 guntas in favour of the defendant no.1(b). While demarcating the area of 10.4 guntas the architect will take into consideration the land which is already in possession of the defendant no.1(b) and the area will be so demarcated that her possession in so far as 10.4 guntas is concerned is not distributed. All parties to pay the costs, charges and expenses equally. The architect is directed to file his report on or before

30.7.2005. The aforesaid order is passed by consent of the parties.

2. Matter to be placed for directions on 4.8.2005. In view thereof nothing survives in the Notice of Motion no. 3367 of 2003. Motion dismissed as infructious.

sd/-

****